

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

RENE FIGUEROA,)	
Plaintiff,)	
)	C.A. No. 22-143 Erie
)	
v.)	District Judge Susan Paradise Baxter
)	Magistrate Judge Richard A. Lanzillo
DEREK F. OBERLANDER, et al.,)	
Defendants.)	

MEMORANDUM ORDER

Plaintiff Rene Figueroa, an inmate incarcerated at the State Correctional Institution at Forest in Marienville, Pennsylvania (“SCI-Forest”), initiated this civil rights action on May 6, 2022, by filing a motion to proceed *in forma pauperis* (“ifp motion”), accompanied by a *pro se* complaint against SCI-Forest Superintendent Derek F. Oberlander (“Oberlander”), Security Captain Carter (“Carter”), Corrections Officer Morgan (“Morgan”), and three (3) unnamed SCI-Forest staff members identified as “John Doe” Defendants. This matter was referred to United States Magistrate Judge Richard A. Lanzillo for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

Plaintiff subsequently filed an amended complaint on October 7, 2022 [ECF No. 19], which is the operative pleading in this case. Plaintiff asserts claims alleging violations of his rights under the first, eighth, and fourteenth amendments to the United States Constitution, as well as a civil rights conspiracy claim and state law claims of assault and battery, conspiracy, negligence, medical malpractice, and intentional infliction of emotional distress.

On October 21, 2022, Defendants Oberlander, Carter, and Morgan filed a motion to dismiss Plaintiff's amended complaint for failure to state a claim [ECF No. 21]. The motion was fully briefed by the parties.

On May 16, 2023, Magistrate Judge Lanzillo issued a Report and Recommendation ("R&R") [ECF No. 27] recommending that Defendants' motion be granted and that the Court dismiss with prejudice: (1) all claims for monetary damages against Defendants in their official capacities; (2) all claims against Defendants Oberlander and Carter for their lack of personal involvement in the alleged misconduct; (3) the intentional infliction of emotional distress claim against all Defendants; (4) the state law assault and battery claim against all Defendants except unnamed Defendant John Doe 1; and (5) the equal protection claims against all Defendants. The R&R recommends further that all other claims, including Plaintiff's claims against unnamed Defendants John Doe 2 and John Doe 3, be dismissed, without prejudice to Plaintiff's right to file an amended complaint stating such claims with more specificity. No timely objections to the R&R have been filed.


After *de novo* review of the complaint and documents in this case, together with the report and recommendation, the following order is entered:

AND NOW, this 9th day of June, 2023;

IT IS HEREBY ORDERED that the motion to dismiss filed by Defendants Oberlander, Carter, and Morgan [ECF No. 21] is GRANTED, and the following claims are DISMISSED with prejudice: (1) all claims for monetary damages against all Defendants in their official capacities; (2) all claims against Defendants Oberlander and Carter; (3) the intentional infliction of emotional distress claim against all Defendants; (4) the state law assault and battery claim

against all Defendants except unnamed Defendant John Doe 1; and (5) the equal protection claims against all Defendants. The Clerk is directed to terminate Defendants Oberlander and Carter from this action.

IT IS FURTHER ORDERED that all other claims are DISMISSED, without prejudice to Plaintiff's right to file a second amended complaint stating such claims with greater specificity **within thirty (30) days of the date of this Order.** In particular, Plaintiff must identify in his second amended complaint the party or parties against whom each claim is asserted and allege each claim "in short, concise, and plain statements," identifying specific conduct and other facts upon which each claim is based. Plaintiff is cautioned to include in his second amended complaint only those claims that have been dismissed *without prejudice*. **Plaintiff's failure to file a proper amended complaint within (30) thirty days of the date of this Order will result in dismissal of all remaining claims, with prejudice, without further notice of the Court.** The report and recommendation of Magistrate Judge Lanzillo, issued May 16, 2023 [ECF No. 27], is adopted as the opinion of the court.


SUSAN PARADISE BAXTER
United States District Judge

cc: The Honorable Richard A. Lanzillo
U.S. Magistrate Judge

all parties of record